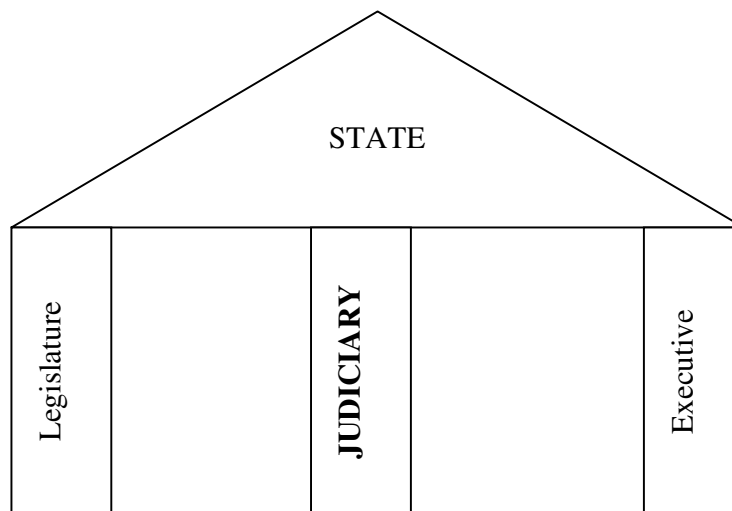
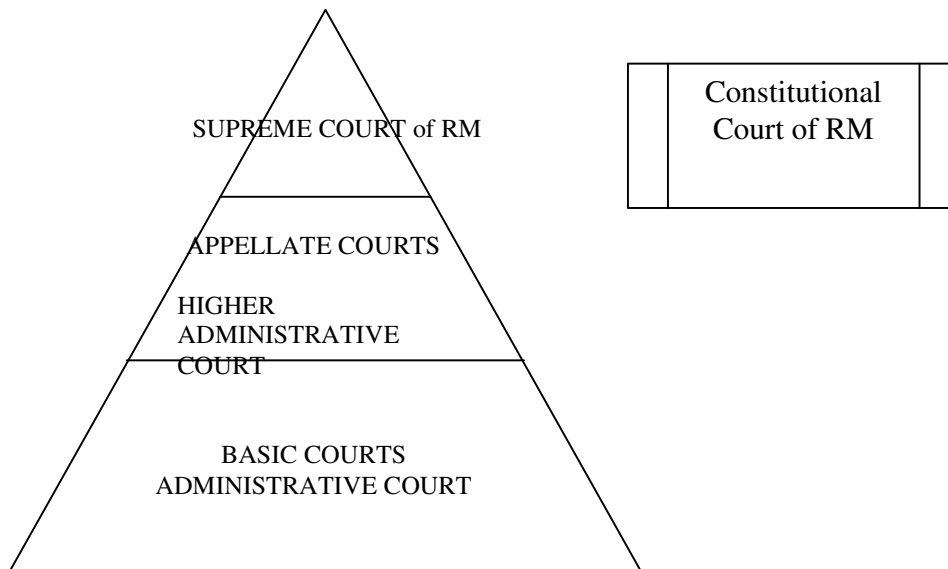


- ***On which basis is the Macedonian state organized?***



According to the Constitution of the Republic of Macedonia, the principle of separation of powers is one of the core values of our legal system. The essence of this principle, introduced in 1991, is that the government is divided into legislative, executive and judicial branch of power. The legislative power is performed by the Parliament of the Republic of Macedonia, the executive by the President of the Republic of Macedonia and the Government of the Republic of Macedonia, while the judiciary is performed by the courts in the Republic of Macedonia. The essence of this principle is that the three branches of power must be completely separated and independent from each other. However, there are certain mechanisms for control and checks among the three branches, in case any of them performs its authorities unlawfully.

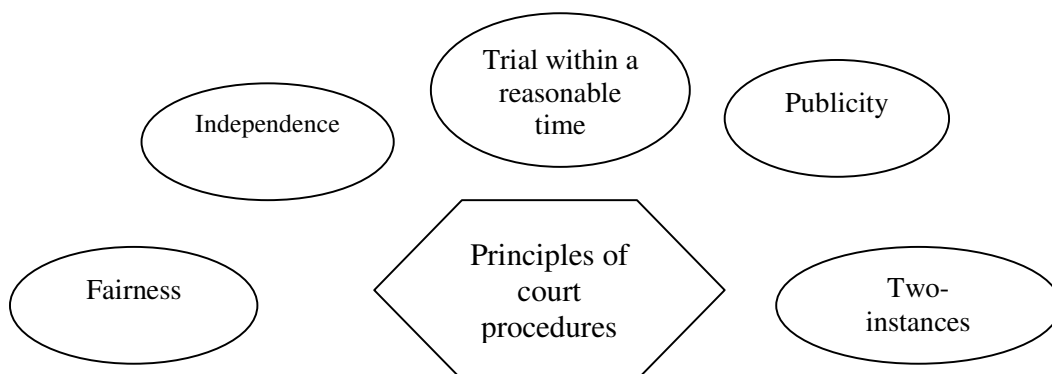
- **How is our judicial system organized?**



In our country, EVERY citizen can exercise his/her rights by taking legal action before any of the 27 **basic courts**. Further, competent for deciding on appeals of the decisions of the basic courts are the 4 **appellate courts** – Skopje, Bitola, Shtip and Gostivar. The third instance of the protection of the rights of the citizens can be obtained before the **Supreme Court of the Republic of Macedonia**.

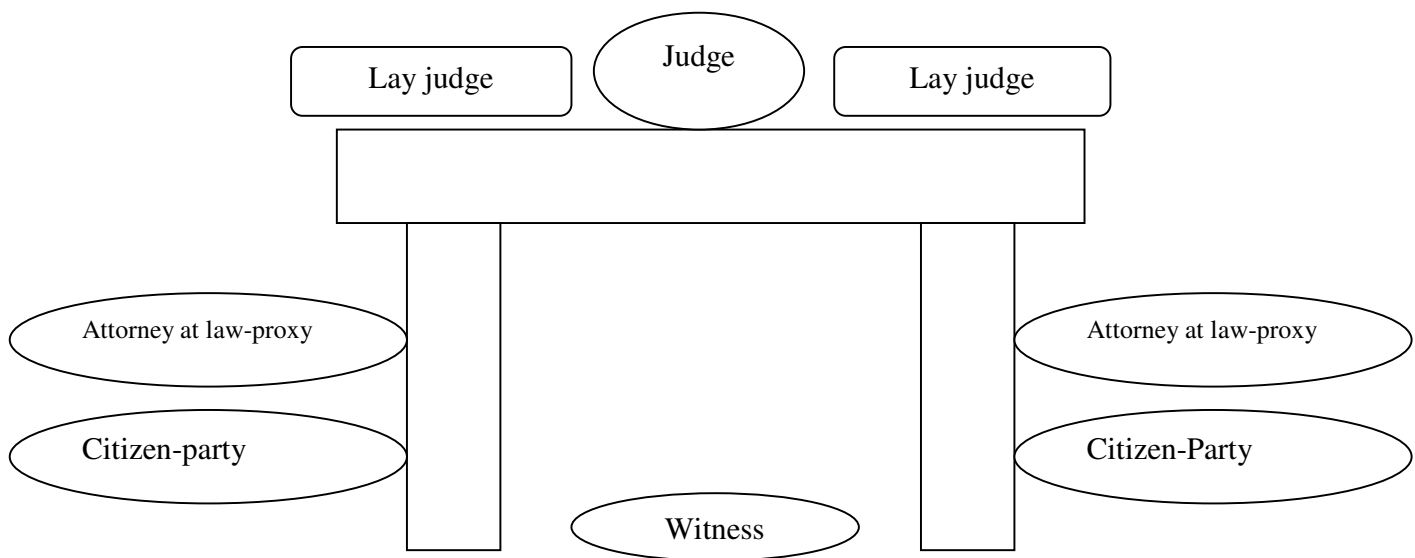
The Administrative Court and the Higher Administrative Court are newly created courts, which authority is to protect the rights of the citizens violated by the state administration bodies.

The **Constitutional Court** as an autonomous and independent institution of the legal system that decides if the adopted laws and other regulations are in accordance with the Constitution, as well as protects the human rights and liberties of the citizens that concern freedom of belief, conscience, thought and public expression of thought, political association and action, and the prohibition of discrimination on the basis of sex, race, religious, national, social and political background.



For the protection of the rights of the citizens, the following procedures before the courts in the Republic of Macedonia are in place – **criminal procedure, civil procedure and administrative dispute procedure**. The civil procedure is consisted of litigation and non – litigation procedures. The responsibility for enforcement of the final civil court decisions with the 2005 Law on Enforcement was transferred from the courts to the private enforcement agents, who hold public authorities to perform this function according to the law.

The rights that arise from personal, family, property, labor, trade and other civil relations are protected through the **civil litigation procedure**.



1 The litigation procedure is initiated by filing a **complaint** to the responsible basic court. A complaint is filed by a party that considers that one of his/her rights has been violated – *plaintiff*. The litigation procedure is initiated against the person who allegedly committed the violation – *defendant*. The plaintiff always has the burden of proof. The court has the mandate to resolve the dispute by bringing a decision, in a form of a **judgment or ruling**, which completes the first instance procedure.

2 If either of the parties is not satisfied with the decision of the court, they can **appeal** the decision before the competent appellate court within a certain deadline. The appellate court will once again review the case and decide – will either confirm the first instance decision, revoke the judgment and return the case to the court of first instance for a renewed trial, or resolve the case itself.

3

Against the decision of the appellate court, the unsatisfied party, under conditions strictly stipulated by law, can file a request for **revision** before the Supreme Court of the Republic of Macedonia, which is the only competent court to decide in the third instance. The decision made by the Supreme Court of RM is final.

Individuals who consider that any of their human rights that are guaranteed by the European Convention for Human Rights and its Protocols are violated by the state, can seek protection by filing an application to the European Court of Human Rights (Court). This application is allowed only if all other legal means available within the national legal system are exhausted, and if the application is received by the Court within 6 months from the day the final decision was made.

I WANT TO KNOW!

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1. The civil procedure is public. This means that all interested parties can attend a hearing and their number is not limited. Are there exceptions when the presence of the public is prohibited?

- There are certain cases in which by law the public is always excluded. Such are the marital disputes and the disputes for determining paternity or maternity, in order to protect the personal interests of the parties. The court can exclude the public with a decision in individual cases when it is necessary to keep a professional secret or if the court deems that the presence of the public would compromise the public order and moral.
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2. Can minors seek protection before the courts?

- Minors can protect their rights before the courts only indirectly, through their legal representatives. Legal representatives of the minors are their parents.
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3. What kind of evidence can be used in the civil procedure?

- The evidences that can be used in the civil procedure are: insight, documents, interrogation of witnesses and expert witnesses, and interrogation of the parties.
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4. Can the court initiate a lawsuit ex officio?

- In the civil procedure the court does not have such a competence. The lawsuit is initiated exclusively by the plaintiff (if s/he considers that one of her/his rights is violated or limited), by filing a complaint to the court.
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5. Do judges have immunity in exercising of their function?

- The judges have immunity only regarding the decisions they make while making and bringing judgments. They cannot be held accountable for a decision they make. If a judge commits a crime, s/he shall be held accountable just like any other citizen of the Republic of Macedonia. According to the Law on Courts, a judge cannot be detained without prior consent of the Judicial Council of the Republic of Macedonia, unless the judge is caught while committing a crime for which a penalty of at least 5 years imprisonment is prescribed.

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6. *Who elects and dismisses the judges?*

- The judges are elected and dismissed by the Judicial Council of the Republic of Macedonia, which is an autonomous and independent judicial body responsible for ensuring and guarantying the autonomy and independence of the judicial branch.